

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CALVIN STANLEY HOLSINGER,

Plaintiff,

v.

JOHNSON COUNTY,

Defendant.

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Civil Action No. **3:21-CV-2745-L-BT**

ORDER

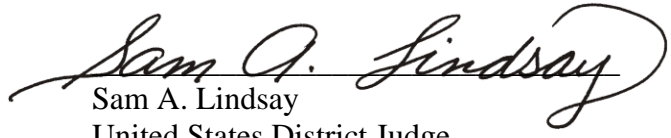
On October 3, 2022, the United States Magistrate Judge entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 16) (“Report”), recommending that the court dismiss without prejudice this action pursuant to Federal Rule of Civil Procedure 41(b) as a result of Plaintiff’s failure to prosecute and comply with a court order. No objections to the Report were filed or received as of the date of this order, and the deadline for objections has expired.

Having considered the pleadings, Report, file, and record in this case, the court determines that the magistrate judge’s findings and conclusions are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** this action pursuant to Rule 41(b) for failure to prosecute and comply with a court order.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the Report, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *See Howard v. King*,

707 F.2d 215, 220 (5th Cir. 1983). Plaintiff, however, may challenge this finding pursuant to *Baugh v. Taylor*, 117 F. 3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Fifth Circuit, within 30 days of this order.

It is so ordered this 31st day of October, 2022.


Sam A. Lindsay
United States District Judge